

RECORD OF OFFICIAL PROCEEDINGS OF THE COMMON COUNCIL
CITY OF ROCHESTER, MINNESOTA
Regular Adjourned Meeting No. 17 – July 19, 2004

7120

Agenda Item	
A-1	No one wished to be heard during the Open Comment Period.
B-1	President John Hunziker called the meeting to order at 7:00 P.M. with the following members present: Councilmembers Dennis Hanson, Marcia Marcoux, Jean McConnell, Sandra Means, Bob Nowicki, and Walter Stobaugh. Absent: None. Also present: Mayor Ardell F. Brede.
D-1-7, 9-11, 13-17, 19-27	Councilmembers Marcoux moved, Nowicki seconded, to approve the following consent agenda items.
D-1	Approved the June 21, 2004, Council minutes.
D-2	Approved authorization for Speed Bumps in the Alleys behind the old City Hall and Holiday Inn Downtown.
D-3	Adopted Resolution No. 351-04 accepting the Settlement Agreement involving CIGNA Insurance and the former landfill site.
D-4	Approving the purchase agreement with Mercury GSE and the State for the used aircraft pushback tractor for use with moving large wide-body aircraft.
D-5	Adopted Resolution No. 352-04 authorizing the agreement to modify existing passenger loading bridge to fit new CRJ aircraft for Northwest Airlines.
D-6	Adopted Resolution No. 353-04 authorizing the agreement with Yaggy Colby Associates to advertise for bids for ADA accessible restrooms at the airport.
D-7	Adopted Resolution No. 354-04 accepting the Federal Grant for 2004 Airfield work.
D-8	See at end of D items.
D-9	Adopted Resolution No. 355-04 approving the Mayor and City Clerk to sign the Cooperative Purchasing Venture Membership Agreement from the State of Minnesota Materials Management Division.
D-10	Approved Accounts Payable in the amount of \$4,953,052.98 and Investment Purchases of \$12,496,440.98.
D-11	Adopted Resolution No. 356-04 approving a new City Personnel Policy titled Disclosure of Personnel Data for Job References and Other Reasons.
D-12	See at end of D items.
D-13	Approved the appointment of Jeff Stilwell and Robert "Casey" Moilanen to the position of Police Sergeant's in the Police Department effective August 5, 2004.

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D-14	Adopted Resolution No. 357-04 approving application for and acceptance of Safe & Sober grant funds, entering into a grant agreement with the Minnesota Department of Public Safety, and matching locally \$2000 from the contingency fund if needed.
D-15	Adopted Resolution No. 358-04 authorizing the City Clerk to advertise for bids for Project No. J-4005, "Construct Regional Storm Water Pond west of West Circle Drive @ 41 st Street NW".
D-16	Adopted Resolution No. 359-04 accepting the Feasibility Report for "Sub-trunkline Sanitary Sewer to serve Sewer Services Area 28F", J-9657.
D-17	Adopted Resolution No. 360-04 authorizing the City Clerk to advertise for bids of Project No. J-9657 "Sub-trunkline Sanitary Sewer to serve Sewer Services Area 28F".
D-18	See at end of D items.
D-19	Adopted Resolution No. 361-04 approving a City/Owner Contract with Emerald Green of Rochester, LLC, and Freidrich Construction Inc., for Project No. J-5117, "Basic Construction to Serve the Pines & Sawinski Pines".
D-20	Adopted Resolution No. 362-04 authorizing the execution of a partial release of a Development Agreement for Lot 9, Seehusen Industrial Park in New River Subdivision.
D-21	Adopted Resolution No. 363-04 approving a revocable permit to allow placement of concrete paver blocks in the drive approach providing access to the property at 1844 36 th Street NW owned by Alfonso and Karen Navarro.
D-22	Adopted Resolution No. 364-04 approving a revocable permit to Robert S. Shaver to allow for the placement of bituminous surface in the right-of-way at 1727 Third Ave. SE.
D-23	Adopted Resolution No. 365-04 approving a City/Owner Contract with West 19 Development, LLC and Griffin Construction, Inc. for Project No. J-5118, "Basic Construction in Fox Trails".
D-24	Adopted Resolution No. 366-04 approving a City/Owner Contract with Hanson & Young, LLC, and Elcor Construction, Inc. for Project No. J-5121, "Basic Construction in Scenic Oaks Fourth (excluding Outlot 'B')".
D-25	Adopted Resolution No. 367-04 authorizing the City Clerk to advertise for bids for Project No. J-4390, "WRP Expansion and Influent Pump Station Substructure".
D-26	Adopted Resolution No. 368-04 approving execution of Amendment No. 1 to MnDot Contract No. 80834; TH 63 in Rochester, Final Design.

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D-27	<p>Adopted Resolution No. 369-04 approving execution of the contract with the Minnesota Department of Transportation (Agreement #86726) for the completion of a Transit Development Plan in the amount of \$116,000 with the city providing 20% of the funds.</p> <p>Ayes (7), Nays (0). Motion carried.</p>
D-8	<p>Councilmember Stobaugh stated he was on the board of the Boys and Girls Club and would abstain from the motion as it addressed the Boys and Girls Club.</p> <p>Councilmembers Marcoux moved, Nowicki seconded to approve the following licenses and miscellaneous activities:</p> <p><u>OFF SALE 3.2% MALT LIQUOR LICENSES</u> Saigon Far East Oriental Market 3918 18th Ave NW Rochester, Mn. 55901</p> <p><u>FIREWORKS DISPLAY</u> Rochester Public School District #535 John Marshall High School 1510 14th St NW Rochester, Mn. 55901 Fireworks On : 9/10/04, 9/24/04, 10/1/04, 10/29/04, 12/10/04, 1/7/05, 2/11/05 & 6/4/05</p> <p><u>GAMBLING – PREMISE PERMIT</u> Dover Firefighters Relief Association 323 E. Eyota, PO Box 65 Dover, Mn. 55929 PREMISE AT: Mickey's Irish Saloon 1605 Civic Center Dr NW Rochester, Mn. 55901</p> <p><u>GAMBLING – TEMPORARY</u> March of Dimes 5233 Industrial Blvd Edina, Mn Raffle 11/8/04 AT: Kahler Hotel 20 2nd Ave SW</p> <p><u>SIDEWALKS – ASPHALT</u> Royal Johnson DBA Rochester Asphalt 21 13th Ave SE Rochester, Mn. 55904</p>

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	<p><u>SIDEWALKS – CEMENT</u> B & K Concrete Rochester, Inc 2017 Silver Creek Ct NE Rochester, Mn. 55906</p> <p><u>SOUND AMPLIFICATION</u> Brothers Bar & Grill, Inc. 812 S. BDWY Rochester, Mn. 55904 “Fun” Beach Party/DJ 8/6/04 7:00 PM to 11:00 PM Joe Mercill 6560 Kristin Ln NW Rochester, Mn. 55901 Briarwood Block Party 8/14/04 1:00 PM to 11:00 PM Summer Family Get Together Cornerstone Evangelical Free Church 2810 40th Ave SE Rochester, Mn. 55904 Annual Church Picnic 7/25/04 9:00 am to 3:00 PM Slatterly Park</p> <p><u>MISCELLANEOUS ACTIVITIES</u> Juvenile Diabetes Research Foundation % Teresa L Brown 27924 565th St Pine Island, Mn. 55963 Walk to Cure Diabetes 9/11/04 University Center – Rochester Boys and Girls Club of Rochester 1026 E. Center St Rochester, Mn. 55904 Children’s Festival 8/1/04 Silver Lake Park Joe Mercill 6560 Kristin Ln NW Rochester, Mn. 55901 Briarwood Block Party 8/14/04 1:00 PM to 11:00 PM Summer Family Get Together Ayes (7), Nays (0). For the Boys and Girls Club application, the vote was Ayes (6), Nays (0). Councilmember Stobaugh abstained. Motion carried.</p>
D-12	Councilmember Nowicki wished to congratulate the police promotions.


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	<p>Councilmembers Nowicki moved, Marcoux seconded, to approve the appointment of Scott Sherden (and Jeff Stilwell and Robert "Casey" Moilanen, Police Sergeant's from D-13) to the Police Lieutenant effective August 5, 2004. Ayes, (7), Nays (0). Motion carried.</p>
D-18	<p>Councilmember Hanson asked for clarification on the hourly rate and not to exceed \$20,000 for the Regional Storm Water Ponds Survey.</p> <p>Councilmembers Hanson moved, Nowicki seconded, to adopt Resolution No. 370-04 approving the city entering into an Engineering Services Agreement with WHKS & Co. to provide survey and staking services for several storm water ponds for an amount not to exceed \$20,000 determined. Ayes (7), Nays (0). Motion carried.</p>
E-1	<p>Councilmembers Stobaugh moved, Marcoux seconded, to continue the public hearing on Sewer Rates and Plant Investment Fees to August 16, 2004. Ayes (7), Nays (0). Motion carried.</p>
E-2	<p>A Continued Hearing on Land Use Amendment #04-02 by Marilyn Kastler to develop approximately 23.90 acres with commercial uses on property located south of 48th Street SW, west of TH 63 and east of the Southern Woods Development.</p> <p>President Hunziker also opened the Continued Hearings for E-3 Zoning District Amendment #04-06 and E-4 General Development Plan #233 to be known as Waterfront Business Park by Marilyn Kastler. All testimony taken in Item E-2 will apply to the three items.</p> <p>Mitzi Baker, Planning Department, referred to a memo dated July 19, 2004 stating revised findings for the Zone Change and the GDP for the council's consideration.</p> <p>Wishing to be heard was Geoff Griffin, GGG Engineering, 14070 Hwy 52 SE, Chatfield, representing the applicant. He stated there has been an agreement with the property owner to the north for an access. He explained the request for the zone change would allow for taller buildings for the type of businesses interested in the development and agreed that there would be no bar's on this site.</p> <p>Wishing to be heard was Tom Wolfe, 735 Southern Woods Circle SW. Mr. Wolfe stated his opposition to the development.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearings.</p>
E-3	<p>Councilmembers Means moved, Stobaugh seconded to adopt Resolution No. 371-04 approving Land Use Plan Amendment #04-02 by Marilyn Kastler to designate from Low Density Residential to General Commercial located south of 48th Street SW, west of Highway 63 and east of Southern Woods Development. Ayes (7), Nays (0). Motion carried.</p> <p>A Continued Hearing on Zoning District Amendment #04-06 by Marilyn Kastler to from R-1 to B-4 on property located south of 48th Street SW, west of Highway 63 and east of Southern Woods Development.</p>

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	<p>President Hunziker noted revisions presented from planning and received from Geoff Griffin his agreement with restrictions of no bars or bowling alleys in this development.</p> <p>All testimony taken in Item E-2 was considered in the E-3 Public Hearing.</p> <p>Councilmembers Stobaugh moved, Nowicki seconded to approve Zoning District Amendment #04-06 by Marilyn Kastler with and instructed the City Attorney to prepare the required ordinance for adoption. Ayes (7), Nays (0). Motion carried.</p>
E-4	<p>A Continuted Hearing on General Development Plan #233 to be known as Waterfront Business Park by Marilyn Kastler located south of 48th Street SW, west of Highway 63 and east of Southern Woods Development.</p> <p>All testimony taken in Item E-2 was considered in the E-4 Public Hearing.</p> <p>Councilmembers Nowicki moved, McConnell seconded to approve General Development Plan #233 to be known as Waterfront Business Park by Marilyn Kastler with six conditions and instructed the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order. Ayes (7), Nays (0). Motion carried.</p>
E-5	<p>A Hearing on Zoning District Amendment #04-12 by Joel Bigelow & Sons south of 41st Street NW, east of West Circle Drive NW and north end of the 40th Avenue NW cul-de-sac.</p> <p>Wishing to be heard was Ward Opitz, 5955 118th Ave. NW, Byron representing the applicant. He explained the history of the property. He noted he was in agreement with the conditions and was available for any questions.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Stobaugh moved, Nowicki seconded to approve Zoning District Amendment #04-12 by Joel Bigelow & Sons and instructed the City Attorney to prepare the required ordinance for adoption. Ayes (7), Nays (0). Motion carried.</p>
E-6	<p>A Hearing on General Development Plan #238 by Joel Bigelow & Sons south of 41st Street NW, east of West Circle Drive NW and north end of the 40th Avenue NW cul-de-sac.</p> <p>All testimony taken in Item E-5 was considered in E-6 Public Hearing.</p> <p>Having no one wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Nowicki moved, Marcoux seconded, to approve General Development Plan #238 by Joel Bigelow & Sons with seven conditions and instructed the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order. Ayes (7), Nay (0). Motion carried.</p>

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E-7	<p>A Hearing on Preliminary Plat #04-20 to be known as Scenic Oaks Fifth Addition by Mark Hanson and Substantial Land Alteration on property located south of Scenic Point Drive SW and west of Willow Creek Golf Course.</p> <p>Wishing to be heard was Geoff Griffin, GGG Engineering, 14070 Hwy 52 SE, Chatfield, representing the applicant. He stated they were in agreement with the conditions and was available for any questions.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Hanson moved, Nowicki seconded, to approve Preliminary Plat #04-20 to be known as Scenic Oaks Fifth Addition with six conditions and instructed the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order and adopted Resolution No. 372-04 approving the Substantial Land Alteration activity with one condition. Ayes (7), Nays (0). Motion carried.</p>
E-8	<p>A Hearing on Final Plat #03-17 by R & L Partnership to be known as Scenic Oaks Third Addition located south of 48th Street SW and west of Scenic Oaks First Addition.</p> <p>Having no one wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Stobaugh moved, Nowicki seconded, to adopt Resolution No. 373-04 approving Final Plat #03-17 by R & L Partnership to be known as Scenic Oaks Third Addition with four conditions. Ayes (7), Nays (0). Motion carried.</p>
E-9	<p>A Hearing on Final Plat #04-03 by R & M Development to be known as Scenic Oaks Fourth Addition located south of Scenic Point Drive SW and west of Willow Creek Golf Course.</p> <p>Wishing to be heard was Geoff Griffin, GGG Engineering, 14070 Hwy 52 SE, Chatfield, representing the applicant. He questioned condition 1a referring to a 10 foot utility easement because the Outlot A will be deeded to the city and felt it wasn't needed.</p> <p>This condition 1a will be amended to include "unless title of the property is deeded to the city".</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Stobaugh moved, Nowicki seconded, to adopt Resolution No. 374-04 approving Final Plat #04-03 by R & M Development to be known as Scenic Oaks Fourth Addition with six conditions including amendment to 1a. Ayes (7), Nays (0). Motion carried.</p>
E-10	<p>A Hearing on Final Plat #04-26 by Dan Penz to be known as 1704 Replat located east of 3rd Avenue SE and south of 16th Street SE.</p>

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	<p>Wishing to be heard was Jeffrey Preuss, McGhie & Betts representing the applicant. He said they were in agreement with the conditions and was available for any questions.</p> <p>Wishing to be heard was Bill Tointon, McGhie & Betts. He explained the large lot is being split into two parcels and the only way to do this is to replat it because it is zoned Commercial/Industrial.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Hanson moved, McConnell seconded, to adopt Resolution No. 375-04 approving Final Plat #04-26 by Dan Penz to be known as 1704 Replat with three conditions. Ayes (7), Nays (0). Motion carried.</p>
E-11	<p>A Hearing on Type III, Phase III Conditional Use Permit #04-22 by West 19th Development to allow for fill in floodway for a roadway crossing and detention pond located north of 19th Street NW, east of 50th Avenue and west of Heartland Drive NW.</p> <p>Wishing to be heard was Bill Tointon, McGhie & Betts representing the applicant. He explained the project and stated they were in agreement with the conditions including the one presented by Mitzi Baker dated today.</p> <p>Wishing to be heard was Richard Cordie, 15 Blakely Court NW. He owns the tree and woody vegetation recycling business adjacent to this project and is concerned with any burning to be done during the project. He requested that wood products be removed from the site before burning, so he is not inundated with calls from area residents complaining and blaming him for the burning.</p> <p>Wishing to be heard was Kristi Clark, McGhie & Betts representing the applicant. She stated they would stay within the city code on tree removal and disposal. Phil Wheeler stated that a burning permit is required. Mr. Cordie and the developer will work together in regards to any burning during construction.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Hanson moved, Marcoux seconded, to adopt Resolution No. 376-04 approving Type III, Phase III Conditional Use Permit #04-22 by West 19th Development with four conditions. Ayes (7), Nays (0). Motion carried.</p>
E-12	<p>A Hearing on Utility Vacation Petition #04-10 by GAC Theaters, LLC to vacate the 10 foot electrical easement located north of East Circle Drive, east of TH 63 North and south of Chateau Theaters.</p> <p>Wishing to be heard was Jeffrey Preuss, McGhie & Betts representing the applicant. He stated they were in agreement with the conditions and was available for any questions.</p>

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Agenda Item	
	<p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers McConnell moved, Nowicki seconded, to adopt Resolution No. 377-04 approving Utility Vacation Petition #04-10 by GAC Theaters, LLC with two conditions. Ayes (7), Nays (0). Motion carried.</p>
E-13	<p>A Hearing 2004 Application for Federal Transit Assistance.</p> <p>Having no one wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Stobaugh moved, Marcoux seconded, to adopt Resolution No. 378-04 approving submitting grant applications for 2004 operating and capital assistance from the Federal Transit Administration under 49 USC Section 5307 and the submittal of a grant application for capital assistance from the Federal Transit Administration under 49 USC Section 5309. Ayes, (7), Nays (0). Motion carried.</p>
F-1	<p>The amendment to GDP #123 Southern Woods, to identify access was withdrawn.</p>
G-2a	<p>An Ordinance Rezoning Approximately 23.90 acres of Property from the R-1 Zoning District to the B-4 Zoning District, and Amending Ordinance No. 2785, Known as the Zoning Ordinance and Land Development Manual of the City of Rochester, Minnesota, was given a first reading. (Zoning District Amendment #04-06, located south of 48th Street SW West of TH 63 and east of the Southern Woods Development)</p> <p>An Ordinance Rezoning Approximately 14 acres of Property from the R-1 Zoning District to the M-1 Zoning District, and Amending Ordinance No. 2785, Known as the Zoning Ordinance and Land Development Manual of the City of Rochester, Minnesota, was given a first reading. (Zoning District Amendment #04-12, located south of 41st Street NW, east of West Circle Drive NW and at the north end of the 40th Ave. NW cul-de-sac)</p>
G-3a	<p>An Ordinance Amending and Reenacting Section 3.001 of the Home Rule Charter of the City of Rochester, Relating to the Special Election Process for Filling Vacant City Offices was given a second reading. Councilmembers Marcoux moved, McConnell seconded to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried.</p>
G-3b	<p>An Ordinance Amending and Reenacting Chapter 138A of the Rochester Code of Ordinances, Relating to the Residential Permit Parking Zones in the City of Rochester was given a second reading. Councilmembers Marcoux moved, Nowicki seconded to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried.</p> <p>Having no further business, Councilmembers Hanson moved, Marcoux seconded to adjourn the meeting. Ayes (7), Nays (0). Motion carried.</p> <p> Deputy City Clerk</p>